



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/077,763	02/20/2002	Haixiang He	57983.000067	3467

7590 07/10/2006
Thomas E. Anderson
Hunton & Williams
1900 K Street, N.W.
Washington, DC 20006-1109

EXAMINER

PHILPOTT, JUSTIN M

ART UNIT	PAPER NUMBER
----------	--------------

2616

DATE MAILED: 07/10/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Advisory Action Before the Filing of an Appeal Brief	Application No. 10/077,763	Applicant(s) HE, HAIXIANG	
	Examiner Justin M. Philpott	Art Unit 2616	

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 03 July 2006 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.
b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
(a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);
(b) ☐ They raise the issue of new matter (see NOTE below);
(c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
(d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): _____.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☐ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
The status of the claim(s) is (or will be) as follows:
Claim(s) allowed: _____.
Claim(s) objected to: _____.
Claim(s) rejected: _____.
Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing of good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:
See Continuation Sheet.
12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08 or PTO-1449) Paper No(s). _____
13. ☐ Other: _____.

Continuation of 11. does NOT place the application in condition for allowance because:

Applicant's arguments filed July 3, 2006 have been fully considered but they are not persuasive.

Specifically, in applicant's discussion of Jain (pages 6-9), applicant concludes that the VID message of Jain is not a "message" as recited in applicant's claims. However, according to the well known standards of IEEE, a "message" is generally known in the art as "a combination of characters and symbols transferred from one point to another" (see, "IEEE 100: The Authoritative Dictionary of IEEE Standards Terms, 7th Edition") which can be "arbitrarily simple (a signal) or complex" (Id.), or, more generally, as "a communication sent from one object to another". Because applicant's claim language does not describe and is not limited to some type of "message" that is uniquely distinct from a "message" that is well known in the art, applicant's broadly claimed "message" is taught by Jain in the form of transmitting the "aggregated list of the multicast information" (see Jain at col. 7, lines 55-67 and col. 8, lines 3-6). Thus, applicant's argument is not persuasive.

Additionally, applicant argues (pages 8-12) that Examiner has not provided motivation to modify Jain. However, the rejection of the claims clearly indicates modification is unnecessary because Jain, not the Examiner, implicitly teaches the claim limitations. While second and third reasons have been provided by the Examiner for how the teachings of Jain and the well known art alternatively imply the remainder of applicant's claim language (i.e., in the passages that follow "Alternatively, ..." and "Still further, ..." at page 5 of the Final Office action mailed April 27, 2006), the first reason, which stands alone, provided by Jain and relied upon Examiner for obviousness is a teaching clearly within the patented invention of Jain. That is, even though Jain may not specifically disclose that the address of the intermediate device 204 is a "group address", intermediate device implicitly performs the function of a group address because it serves as the common address for both VLAN 228 and 230 to register with devices 202 and 204 as VLAN 500 (e.g., see col. 8, lines 15 - col. 9, line 12). Thus, applicant's argument that it is improper for the Examiner to modify Jain is moot because it is the text of Jain that clearly implies this teaching, not the Examiner..


CHI PHAM
SUPERVISORY PATENT EXAMINER 7/6/06